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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

17 BIOTECHNOLOGY VALUE FUND,
L.P.; BIOTECHNOLOGY VALUE
18 FUND II, L.P.; INVESTMENT 10, L.L.C.;
BVF INVESTMENTS, L.L.C.; BVF INC.;
19 and BVF X, LLC,

20 Plaintiffs,

21 vs.

22 CELERA CORPORATION; CREDIT
SUISSE SECURITIES (USA) LLC;
23 KATHY ORDOÑEZ; RICHARD H.
AYERS; WILLIAM G. GREEN; PETER
BARTON HUTT; GAIL K. NAUGHTON;
24 WAYNE I. ROE; and BENNETT M.
SHAPIRO,

25 Defendants.

Case No. CV-13-3248-WHA-DMR

26 **STIPULATION AND [PROPOSED]
ORDER SHORTENING TIME ON
DEFENDANTS' MOTION TO EXCLUDE
THE OPINIONS OF PLAINTIFFS'
DAMAGES EXPERT ADAM WERNER**

27 In accordance with Civil Local Rules 6-1 and 6-2, the parties – consisting of Plaintiffs
Biotechnology Value Fund, L.P., Biotechnology Value Fund II, L.P., Investment 10, L.L.C.,

1 BVF Investments, L.L.C., BVF Inc., and BVF X, LLC (collectively, "Plaintiffs") and Defendants
 2 Celera Corporation, Kathy Ordoñez, Richard H. Ayers, William G. Green, Peter Barton Hutt,
 3 Gail K. Naughton, Wayne I. Roe, and Bennett M. Shapiro (collectively, "Defendants") –
 4 respectfully submit this Stipulation, with the accompanying Proposed Order, allowing
 5 Defendants' Motion to Exclude the Opinions of Plaintiffs' Damages Expert Adam Werner (the
 6 "Motion") to be heard on 34 day's notice – i.e. January 15, 2015 (as if the Motion had been filed
 7 and noticed yesterday).

8 **WHEREAS:**

9 1. On December 11, 2014, a storm deluged San Francisco and knocked out power to
 10 much of downtown San Francisco, including the Russ Building at 235 Montgomery Street. The
 11 offices of Defendants' Counsel, Farella Braun + Martel LLP ("Farella"), were without power for
 12 much of the business day and employees were not allowed to enter the building while it was
 13 without power.

14 2. Counsel for Defendants intended to file the Motion on December 11, 2014, but we
 15 could not access and generate our documents for filing as the power outage shut down Farella's
 16 computer and email systems. Counsel for Defendants also received an email message from Clerk
 17 of the Court Richard Wieking notifying us that the San Francisco division of the U.S. District
 18 Court for the Northern District of California also closed due to a major power outage.

19 3. On December 12, 2014, Christoffer Lee, counsel for Defendants, contacted Marc
 20 Pilotin, counsel for Plaintiffs, and requested a stipulation to have the Motion heard on shortened
 21 time – 34 days' notice instead of 35 – provided that shortening time would not prejudice Plaintiffs
 22 or the Court. (*See* Lee Decl. ¶ 3.) Accordingly, Defendants agree to reduce by one day the time
 23 in which to reply to Plaintiffs' anticipated opposition to the Motion. By taking one day out of
 24 Defendants' reply time, both Plaintiffs and the Court would have the same amount of time to
 25 review as if the Motion were filed yesterday.

26 4. The parties, therefore, jointly request that the Motion be heard at the Court's civil
 27 law and motion calendar on **Thursday, January 15, 2015 at 8:00 A.M.** The parties stipulate that
 28 Plaintiffs' opposition would be due on December 26, 2014, and that Defendants' reply would be

1 served and filed on January 1, 2015. As January 1, 2015 is a Court holiday, it would be deemed
 2 filed on January 2, 2015.

3 5. The parties do not anticipate that this requested modification will have an effect on
 4 the schedule as this modification would not interfere with the final pretrial conference, which is
 5 set for February 4, 2015.

6 6. All other previous time modifications in the case, whether by stipulation or
 7 proposed order, are reflected in the Court's November 1, 2013 First Order (Docket No. 59),
 8 August 12, 2014 Second Order (Docket No. 158), and Orders granting and denying requests by
 9 the parties to extend briefing with respect to the Fall 2013 motion to dismiss. (See Docket Nos.
 10 31, 55, 58, and 67.) Additionally, on November 18, 2014, pursuant to the stipulation of the
 11 parties, the Court permitted Defendants' motion for summary judgment to be heard on January 8,
 12 2015 in light of the interaction between the Court's scheduling orders and the Court's closure on
 13 December 25, 2014 and January 1, 2015. (See Stipulation and Order Modifying Hearing Date for
 14 Summary Judgment (Docket No. 195).)

15 7. A settlement conference is set for January 6, 2015 before Magistrate Judge Ryu.
 16 (See Docket No. 218.)

17 8. Accordingly, the parties hereby stipulate, subject to the Court's approval, that
 18 Defendants may set their hearing on the Motion to Exclude the Opinions of Plaintiffs' Damages
 19 Expert Adam Werner on January 15, 2015 at 8:00 A.M., with Plaintiffs' opposition due
 20 December 26, 2014 and Defendants' reply due January 1, 2015.

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 22 **ATTESTATION:** Pursuant to General Order 45, Part X-B, the filer attests that concurrence in
 23 the filing of this document has been obtained from each of the signatories.

1 Dated: December 12, 2014

2 By: /s/ C. Brandon Wisoff
3 C. Brandon Wisoff

4 FARELLA BRAUN + MARTEL LLP

5 Attorneys for Defendants Celera
6 Corporation, Kathy Ordoñez, Richard H.
7 Ayers, William G. Green, Peter Barton
8 Hutt, Gail K. Naughton, Wayne I. Roe, and
9 Bennett M. Shapiro

10 Dated: December 12, 2014

11 By: Marc A. Pilotin
12 Marc A. Pilotin

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Attorneys for Plaintiffs

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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26 Dated: December 15, 2014.

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William Alsup
United States District Judge